

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IMPERIAL UNIFIED SCHOOL DISTRICT  
AND IMPERIAL COUNTY OFFICE OF  
EDUCATION.

OAH Case No. 2015110729

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
HEARING

On February 5, 2016, Imperial Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon unavailability of District witnesses and legal counsel. Student and Imperial County Office of Education did not file a response. District indicates in its motion that it contacted both Student and County, and neither objected to the continuance request and dates requested.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. District established good cause for the continuance as District witnesses will not be available, as set forth in declaration of District

legal counsel, Kirsten Zittlau, and also Ms. Zittlau's unavailability. Therefore, this matter will be set as follows:<sup>1</sup>

Prehearing Conference: April 25, 2016, at 10:00 AM  
Due Process Hearing: May 3, 2016,<sup>2</sup> at 9:30 AM, May 4 and 5, 2016, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter is assigned to Administrative Law Judge Paul Kamoroff.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: February 11, 2016

DocuSigned by:

*Peter Paul Castillo*

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> The mediation presently scheduled for March 3, 2016, will remain as calendared unless cancelled by the parties.

<sup>2</sup> The requested start date of May 2, 2016, is not available due to Administrative Law Judges' staff meeting that day.